



DEPARTMENT OF THE NAVY  
OFFICE OF THE CHIEF OF NAVAL OPERATIONS  
2000 NAVY PENTAGON  
WASHINGTON DC 20350-2000

5700  
Ser N45/21U132548  
July 13, 2021

Kristen Monsell  
Oceans Legal Director & Senior Attorney  
Center for Biological Diversity  
1212 Broadway, Ste. 800  
Oakland, CA 94612

Dear Ms. Monsell,

SUBJECT: RESPONSE TO CENTER FOR BIOLOGICAL DIVERSITY 17 MAY 2021  
NOTICE OF INTENT TO SUE UNDER THE ENDANGERED SPECIES ACT  
REGARDING U.S. NAVY ACTIVITIES IN THE HAWAII-SOUTHERN  
CALIFORNIA TRAINING AND TESTING STUDY AREA

The Departments of Defense and of the Navy are in receipt of your May 17, 2021 letter, which provided notice of intent to sue under the Endangered Species Act (ESA) on behalf of your client, the Center for Biological Diversity (CBD). I am responding on behalf of the Departments of Defense and of the Navy (collectively, Navy) in this important matter.

CBD alleges that the Navy is required to reinitiate consultation under the ESA with the National Marine Fisheries Service (NMFS) regarding Navy activities analyzed in the Biological Opinion issued under Section 7 of the ESA consultation for Navy training and testing in the Hawaii-Southern California Training and Testing (HSTT) study area. This consultation was completed in December 2018; NMFS issued an amended incidental take statement on January 14, 2020.

CBD alleges that the agencies are required to reinitiate the ESA consultation for this action because a variety of new information reveals effects of the agency action that may affect ESA-listed species or critical habitat in a manner or to an extent not previously considered. The Navy and NMFS have coordinated on this matter. The Navy intends to reinitiate formal consultation for the HSTT study area on the basis of new information. The Navy has notified NMFS of its intention to request reinitiation and will submit its request shortly.

Should you wish to discuss this matter further, please contact Robert Smith from the Office of General Counsel via phone at (202) 685-7023 or e-mail at [robert.j.smith2@navy.mil](mailto:robert.j.smith2@navy.mil).

Sincerely,

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E. M. KERN  
Director  
Energy and Environmental Readiness Division